

PATENT COOPERATION TREATY

BEST AVAILABLE COPY
PCT

NOTIFICATION OF ELECTION

(PCT Rule 61.2)

From the INTERNATIONAL BUREAU

To:

Assistant Commissioner for Patents
United States Patent and Trademark
Office
Box PCT
Washington, D.C.20231
ETATS-UNIS D'AMERIQUE

in its capacity as elected Office

Date of mailing:

31 August 2000 (31.08.00)

International application No.:

PCT/AU00/00129

Applicant's or agent's file reference:

P31B/PCT

International filing date:

24 February 2000 (24.02.00)

Priority date:

24 February 1999 (24.02.99)

Applicant:

BARTLETT, Brian et al

1. The designated Office is hereby notified of its election made:

☒ in the demand filed with the International preliminary Examining Authority on:

20 July 2000 (20.07.00)

☐ in a notice effecting later election filed with the International Bureau on:2. The election ☒ was☐ was not

made before the expiration of 19 months from the priority date or, where Rule 32 applies, within the time limit under Rule 32.2(b).

The International Bureau of WIPO
34, chemin des Colombettes
1211 Geneva 20, Switzerland

Facsimile No.: (41-22) 740.14.35

Authorized officer:

J. Zahra

Telephone No.: (41-22) 338.83.38

FOR THE PURPOSES OF INFORMATION ONLY

Codes used to identify States party to the PCT on the front pages of pamphlets publishing international applications under the PCT.

AL	Albania	ES	Spain	LS	Lesotho	SI	Slovenia
AM	Armenia	FI	Finland	LT	Lithuania	SK	Slovakia
AT	Austria	FR	France	LU	Luxembourg	SN	Senegal
AU	Australia	GA	Gabon	LV	Latvia	SZ	Swaziland
AZ	Azerbaijan	GB	United Kingdom	MC	Monaco	TD	Chad
BA	Bosnia and Herzegovina	GE	Georgia	MD	Republic of Moldova	TG	Togo
BB	Barbados	GH	Ghana	MG	Madagascar	TJ	Tajikistan
BE	Belgium	GN	Guinea	MK	The former Yugoslav	TM	Turkmenistan
BF	Burkina Faso	GR	Greece		Republic of Macedonia	TR	Turkey
BG	Bulgaria	HU	Hungary	ML	Mali	TT	Trinidad and Tobago
BJ	Benin	IE	Ireland	MN	Mongolia	UA	Ukraine
BR	Brazil	IL	Israel	MR	Mauritania	UG	Uganda
BY	Belarus	IS	Iceland	MW	Malawi	US	United States of America
CA	Canada	IT	Italy	MX	Mexico	UZ	Uzbekistan
CF	Central African Republic	JP	Japan	NE	Niger	VN	Viet Nam
CG	Congo	KE	Kenya	NL	Netherlands	YU	Yugoslavia
CH	Switzerland	KG	Kyrgyzstan	NO	Norway	ZW	Zimbabwe
CI	Côte d'Ivoire	KP	Democratic People's	NZ	New Zealand		
CM	Cameroon		Republic of Korea	PL	Poland		
CN	China	KR	Republic of Korea	PT	Portugal		
CU	Cuba	KZ	Kazakstan	RO	Romania		
CZ	Czech Republic	LC	Saint Lucia	RU	Russian Federation		
DE	Germany	LI	Liechtenstein	SD	Sudan		
DK	Denmark	LK	Sri Lanka	SE	Sweden		
EE	Estonia	LR	Liberia	SG	Singapore		

INTERNATIONAL SEARCH REPORT

International application No.
PCT/AU00/00129

A. CLASSIFICATION OF SUBJECT MATTER				
Int. Cl. ⁷ : A23K 1/10				
According to International Patent Classification (IPC) or to both national classification and IPC				
B. FIELDS SEARCHED				
Minimum documentation searched (classification system followed by classification symbols) SEE ELECTRONIC DATABASE BOX BELOW				
Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched SEE ELECTRONIC DATABASE BOX BELOW				
Electronic data base consulted during the international search (name of data base and, where practicable, search terms used) WPids, chem abs, fsta: keywords; long chain, dha, dpa, epa, decosahexanoic, docosapentaenoic, eicosapentaenoic, omega 3, green tea, animal (feed, fodder), fish meal, fish oil, taint, supplement.				
C. DOCUMENTS CONSIDERED TO BE RELEVANT				
Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.		
X	O'KEEFE, S. F. et al, "Lipid oxidation in meats of omega-3 fatty acid-enriched broiler chickens" <i>Food Research International</i> , vol. 28, no. 4, pages 417-424, 1995. See entire document.	1		
X	HOWE, P. R. C. "ω3-Enriched Pork" <i>World Review of Nutrition and Dietetics</i> , vol. 83, pages 132-143, 1998. See entire document.	1-82		
X	MANDELL, I. B. et al "Enrichment of Beef with ω3 Fatty Acids" <i>World Review of Nutrition and Dietetics</i> , vol. 83, pages 144-159, 1998. See entire document.	1-82		
<input type="checkbox"/> Further documents are listed in the continuation of Box C <input type="checkbox"/> See patent family annex				
<p>* Special categories of cited documents:</p> <table border="0"> <tr> <td style="vertical-align: top;"> <p>"A" document defining the general state of the art which is not considered to be of particular relevance</p> <p>"E" earlier application or patent but published on or after the international filing date</p> <p>"L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)</p> <p>"O" document referring to an oral disclosure, use, exhibition or other means</p> <p>"P" document published prior to the international filing date but later than the priority date claimed</p> </td> <td style="vertical-align: top;"> <p>"T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention</p> <p>"X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone</p> <p>"Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art</p> <p>"&" document member of the same patent family</p> </td> </tr> </table>			<p>"A" document defining the general state of the art which is not considered to be of particular relevance</p> <p>"E" earlier application or patent but published on or after the international filing date</p> <p>"L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)</p> <p>"O" document referring to an oral disclosure, use, exhibition or other means</p> <p>"P" document published prior to the international filing date but later than the priority date claimed</p>	<p>"T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention</p> <p>"X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone</p> <p>"Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art</p> <p>"&" document member of the same patent family</p>
<p>"A" document defining the general state of the art which is not considered to be of particular relevance</p> <p>"E" earlier application or patent but published on or after the international filing date</p> <p>"L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)</p> <p>"O" document referring to an oral disclosure, use, exhibition or other means</p> <p>"P" document published prior to the international filing date but later than the priority date claimed</p>	<p>"T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention</p> <p>"X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone</p> <p>"Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art</p> <p>"&" document member of the same patent family</p>			
Date of the actual completion of the international search 4 May 2000		Date of mailing of the international search report 10 MAY 2000		
Name and mailing address of the ISA/AU AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALIA E-mail address: pct@ipaustalia.gov.au Facsimile No. (02) 6285 3929		Authorized officer PHILIPPA WYRDEMAN Telephone No : (02) 6283 2554		

INTERNATIONAL SEARCH REPORT

International application No.

PCT/AU00/00129

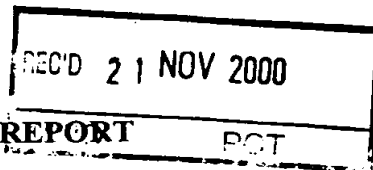
Box III **TEXT OF THE ABSTRACT (Continuation of item 5 of the first sheet)**

An animal feed supplement that includes fish meal as a source of omega 3 long chain fatty acids for inclusion in the diet of said animal; wherein, the fatty acids are increased to a level which maximises the nutritional value of the food produce from said animal but without taint of said produce.

PATENT COOPERATION TREATY
PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)



Applicant's or agent's file reference P31BPCT	FOR FURTHER ACTION	See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416).
International Application No. PCT/AU00/00129	International Filing Date (day/month/year) 24 February 2000	Priority Date (day/month/year) 24 February 1999
International Patent Classification (IPC) or national classification and IPC Int. Cl. ⁷ A23K 1/00		
Applicant BARTLETT GRAIN PTY LTD et al		

1.	This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.																								
2.	<p>This REPORT consists of a total of 4 sheets, including this cover sheet.</p> <p><input type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of sheet(s).</p>																								
<p>3. This report contains indications relating to the following items:</p> <table style="width: 100%;"> <tr> <td style="width: 5%;">I</td> <td style="width: 5%; text-align: center;"><input checked="" type="checkbox"/></td> <td>Basis of the report</td> </tr> <tr> <td>II</td> <td style="text-align: center;"><input type="checkbox"/></td> <td>Priority</td> </tr> <tr> <td>III</td> <td style="text-align: center;"><input type="checkbox"/></td> <td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td>IV</td> <td style="text-align: center;"><input type="checkbox"/></td> <td>Lack of unity of invention</td> </tr> <tr> <td>V</td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td>VI</td> <td style="text-align: center;"><input type="checkbox"/></td> <td>Certain documents cited</td> </tr> <tr> <td>VII</td> <td style="text-align: center;"><input type="checkbox"/></td> <td>Certain defects in the international application</td> </tr> <tr> <td>VIII</td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td>Certain observations on the international application</td> </tr> </table>		I	<input checked="" type="checkbox"/>	Basis of the report	II	<input type="checkbox"/>	Priority	III	<input type="checkbox"/>	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	IV	<input type="checkbox"/>	Lack of unity of invention	V	<input checked="" type="checkbox"/>	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	VI	<input type="checkbox"/>	Certain documents cited	VII	<input type="checkbox"/>	Certain defects in the international application	VIII	<input checked="" type="checkbox"/>	Certain observations on the international application
I	<input checked="" type="checkbox"/>	Basis of the report																							
II	<input type="checkbox"/>	Priority																							
III	<input type="checkbox"/>	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability																							
IV	<input type="checkbox"/>	Lack of unity of invention																							
V	<input checked="" type="checkbox"/>	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement																							
VI	<input type="checkbox"/>	Certain documents cited																							
VII	<input type="checkbox"/>	Certain defects in the international application																							
VIII	<input checked="" type="checkbox"/>	Certain observations on the international application																							

Date of submission of the demand 20 July 2000	Date of completion of the report 15 November 2000
Name and mailing address of the IPEA/AU AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALIA E-mail address: pct@ipaaustralia.gov.au Facsimile No. (02) 6285 3929	Authorized Officer PHILIPPA WYRDEMAN Telephone No. (02) 6283 2554

I. Basis of the report

1. With regard to the **elements** of the international application:*
- ☒ the international application as originally filed.
- ☐ the description, pages , as originally filed,
 pages , filed with the demand,
 pages , received on with the letter of
- ☐ the claims, pages , as originally filed,
 pages , as amended (together with any statement) under Article 19,
 pages , filed with the demand,
 pages , received on with the letter of
- ☐ the drawings, pages , as originally filed,
 pages , filed with the demand,
 pages , received on with the letter of
- ☐ the sequence listing part of the description:
 pages , as originally filed
 pages , filed with the demand
 pages , received on with the letter of
2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.
These elements were available or furnished to this Authority in the following language which is:
- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).
3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, was on the basis of the sequence listing:
- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished
4. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/fig.
5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims 2-82	YES
	Claims 1	NO
Inventive step (IS)	Claims None	YES
	Claims 1-82	NO
Industrial applicability (IA)	Claims 1-82	YES
	Claims None	NO

2. Citations and explanations (Rule 70.7)

The following documents are referred to:

D1. O'KEEFE, S. F. et al, "Lipid oxidation in meats of omega-3 fatty acid-enriched broiler chickens" *Food Research International*, vol. 28, no. 4, pages 417-424, 1995.

D2. HOWE, P. R. C. "ω3-Enriched Pork" *World Review of Nutrition and Dietetics*, vol. 83, pages 132-143, 1998

D3. MANDELL, I. B. et al "Enrichment of Beef with ω3 Fatty Acids" *World Review of Nutrition and Dietetics*, vol. 83, pages 144-159, 1998.

The claims of this application are directed to animal feed supplements including fish meal as a source of omega 3 long chain fatty acids wherein the use of said supplements maximises the nutritional value of the food produce from the animal but without taint.

Claim 1 is not limited to any particular level of fish meal in the animal feed and does not indicate what is meant by maximised nutritional value.

D1 discloses supplements for broiler chickens including 0, 4, 8 and 12% fish meal. Omega 3 fatty acid incorporation in the food produce from the chickens was noted with increasing fish meal with taint only problematic above 4%. This disclosure is thus novelty destroying for claim 1.

D2 discloses the enrichment of beef with omega 3 fatty acids. On page 152, the citation teaches that flavour and odor problems may be prevented by supplementing diets with no more than 12% fish meal. Furthermore, it is pointed out that increased use of antioxidants in storage and feeding and the utilisation of products from different fish species may be able to eliminate flavour and odor problems. In addition, D3 also discusses the use of antioxidants in feed supplements containing fish meal for the same purpose. Thus, D2 and D3, singularly or together, provide the skilled addressee with sufficient direction to make the feed supplements claimed without the use of inventive faculty. Thus, claims 1-82 are not considered inventive.

VIII. Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

The claims lack clarity with regard to the phrase "maximises the nutritional value of the food produce". It is unclear what nutritional values exactly are being referred to and what constitutes a maximised nutritional value.

The specification as a whole is unclear because it fails to elucidate the feature providing the advance over the prior art. In particular, the specification is directed to animal feed supplements including fish meal as a source of omega 3 long chain fatty acids wherein the use of said supplements maximises the nutritional value of the food produce from the animal but without taint. However, nowhere in the specification is any indication as to how this result is achieved. This lack of indication of the salient features of the invention make it impossible to comment on the level of support provided by the description to the claimed subject matter.